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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re MIA J.,

a Person Coming Under the
Juvenile Court Law.

B288171

(Los Angeles County
Super. Ct. No. DK21422)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

CLAUDIA A.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los
Angeles County, Nancy Ramirez, Judge. Affirmed.

Leslie A. Barry, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Acting Assistant County Counsel, and Tracey F. Dodds, Principal Deputy County Counsel, for Plaintiff and Respondent.

Claudia A. (mother) gave birth to two children, Mia, who is now more than three years old, and Scarlett, who died in December 2016 when she was two months old. After Scarlett's death, the Los Angeles County Department of Children and Family Services (DCFS) filed a petition alleging Mia was a child described by Welfare and Institutions Code section 300,¹ charging, in part, that mother and father had caused Scarlett's death by bed-sharing (also known as co-sleeping) with the child. The juvenile court sustained the allegation. On appeal, mother contends that because there was no evidence that co-sleeping had caused Scarlett's death, the juvenile court's true finding as to the section 300, subdivision (f), allegation must be reversed, as must the related subdivision (b) and subdivision (j) allegations. We affirm.

FACTUAL BACKGROUND

Mother and father began dating in August 2014. Their first daughter, Mia, was born in 2015. In December 2015, mother and father began living in the maternal grandparents' home. Their second daughter, Scarlett, was born in October 2016.

On December 11, 2016, mother spent the day at home with Mia and Scarlett. Between 10:00 p.m. and midnight on that day,

¹ All further statutory references are to the Welfare and Institutions code unless otherwise specified.

mother breastfed Scarlett and placed Scarlett in her cradle to sleep. Mother then went to bed, allowing Mia to sleep in the bed with her. At some point, father came to bed with mother and Mia. During the night, father fed Scarlett and changed her diaper. Eventually, mother, father, Mia and Scarlett were all asleep in the parents' queen size bed that night. Mia and Scarlett slept between mother and father.

On December 12, 2016, father woke a little before 8:00 a.m. and discovered Mia's arm and blanket over Scarlett's face. Father removed the blanket and saw that Scarlett was not breathing and was limp. He immediately woke mother. Mother grabbed Scarlett and ran to the maternal grandparents' room. The maternal grandmother started performing CPR on Scarlett while another family member called 911.

Los Angeles County Sheriff's Department Deputy Hill and Deputy Perez responded to the family home and saw that Scarlett was unresponsive and limp. The baby's lips were purple but she was still warm. Deputy Perez administered CPR on Scarlett until paramedics arrived and took over CPR. Scarlett was transported to Antelope Valley Hospital. Doctors subsequently transferred Scarlett to UCLA Medical Center. At UCLA, physicians determined that Scarlett had suffered hypoxic ischemic brain injury. Deputy Hill filed a suspicious circumstances report and also reported the incident to DCFS.

CSW Macias investigated the referral for DCFS. As part of her investigation, CSW Macias interviewed Deputy Hill. According to Deputy Hill, neither mother nor father appeared to be under the influence when he responded to the home. However, Deputy Hill did not believe that the weight of the blanket or Mia's arm were sufficient to suffocate Scarlett. CSW

Macias also spoke to a nurse at UCLA, who said that it appeared Scarlett was brain dead but tests to confirm her status could not be administered for another 24 hours. The nurse also said Scarlett's injuries were indicative of suffocation, which could have possibly resulted from co-sleeping, but that Scarlett had no other signs of abuse or neglect.

CSW Macias then interviewed Special Victims Detective Amis. Detective Amis said that he had concluded the incident "was a result of a co-sleeping accident with suspicious circumstances because it [was] his gut feeling that perhaps the mother accidentally rolled over baby while sleeping, and father reported that child, Mia's blanket and arm was over Scarlett's face to protect the mother." Detective Amis indicated that a referral had been made to DCFS because parents should not be co-sleeping with their children.

CSW Macias also went to UCLA Medical Center, where she interviewed both Dr. Alicia Stapleton and the nurse with whom CSW Macias had spoken earlier. Dr. Stapleton confirmed that Scarlett appeared to be brain dead but said further testing was required. Dr. Stapleton opined that Scarlett's injuries were "consistent with suffocation from co-sleeping" and that she showed no other signs of abuse or neglect.

CSW Macias also interviewed the maternal grandparents, as well as mother and father. Mother reported that there was a crib in the room for Mia but that Mia preferred to sleep in mother and father's bed. Mother also said there was a cradle next to the bed for Scarlett, and that Scarlett usually slept in the cradle. Mother said Scarlett was very attached to her and she was "extra tired" from Scarlett constantly needing to be with her. Mother denied that there had been any domestic violence between her

and father. Mother also said she had never seen father abuse or neglect Mia or Scarlett. When asked about drugs, Mother said that she had a problem with “oxy” in the past but had been sober since July 2014. Mother also said that she and father had smoked marijuana on December 10, 2016, while Mia and Scarlett were sleeping.² While Scarlett was at the hospital, mother agreed to undergo drug testing and signed a safety plan, which provided that she and father would no longer co-sleep with the children.

Scarlett died on December 13, 2016. The matter was referred to the Sheriff’s Department homicide division as well as the coroner’s office.³ DCFS was also notified. CSW Macias went to the family home that same day. The home was “clean without any visible safety hazards” and there was no evidence of drugs or alcohol. In mother and father’s room, CSW Macias observed a queen size bed, a crib and a cradle. Later that day, CSW Macias returned to the home to see Mia. Mia appeared happy and healthy and showed no signs of abuse or neglect.⁴ During this meeting, father agreed to undergo drug testing and also signed the safety plan.

² Although mother admitted smoking marijuana on the evening of December 10, 2016, she did not appear to be under the influence of drugs or alcohol on the morning of December 12, 2016.

³ Sergeant Ewing of the homicide division later reported “they [were] no longer seeing this case as a homicide and more like an accident” and said that the district attorney had rejected the case.

⁴ A full exam, conducted on December 14, 2016, revealed no signs of abuse or neglect.

On December 14, 2016, mother and father agreed to a revised safety plan. They agreed father would move out of the home and that all contact between father and Mia would be supervised. CSW Macias also believed that further investigation was necessary. As a result, mother was interviewed again, participated in another assessment, submitted to a drug test and agreed to an extension of the safety plan.⁵ In-home services and a safety plan were also recommended. DCFS received the coroner's narrative at this time. During interviews with the coroner investigator, mother said that Scarlett had either slept in her cradle or in the queen size bed with mother, father and Mia. Father reported co-sleeping with mother, Mia and Scarlett three to four times a week. When asked about her knowledge of co-sleeping, mother said that the hospital had provided information "that babies should sleep on their back[s] on a flat surface" and she knew the consequences of co-sleeping but " 'did it with Mia' " anyway.⁶

Despite the recommendation for in-home services, DCFS sought a protective custody warrant. Mother subsequently moved from the family home so that Mia could be placed with the maternal grandparents.

⁵ During the assessment conducted December 18, 2016, mother admitted taking a sip of alcohol on December 15, 2016, and said she had smoked some marijuana "a few days ago." The drug test was positive for marijuana at 81 ng/ml.

⁶ When later interviewed for the jurisdiction/disposition report, mother said that co-sleeping was natural and admitted to previously co-sleeping with Mia and Scarlett. DCFS expressed concern because although mother knew the possible consequences of co-sleeping, she had still engaged in the practice.

Mother visited Mia almost daily and eventually progressed to unmonitored visits. Mother also attended a parenting class and completed the class on June 5, 2017. Mother also enrolled in individual counseling. Mother voluntarily drug tested and consistently presented negative tests.

DCFS received a copy of the autopsy report in September 2017. The autopsy report identified the cause of Scarlett's death as "sudden unexplained infant death, with chronic hepatitis with mild activity as a contributing factor." The autopsy report identified the manner of death as "undetermined" because, even though it was known that bed-sharing significantly increases the risk of sudden unexplained infant death, it was "unknown if the bed sharing contributed to [Scarlett's] death."

PROCEDURAL HISTORY

On December 27, 2016, DCFS sought and obtained a protective custody warrant as to Mia. DCFS took Mia into protective custody that evening and placed her with the maternal grandparents. On December 30, 2016, DCFS filed a petition which alleged then 17-month-old Mia was subject to juvenile court jurisdiction pursuant to section 300, subdivisions (a), (b)(1), (f) and (j).⁷

⁷ Section 300, subdivision (a) applies if the child "has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian." Subdivision (b)(1) applies, in relevant part, if "[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child . . . or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's . . . substance abuse." Subdivision

Counts a-1, b-4 and j-2 alleged that, in August 2013, Mia's then three-month-old paternal half brother, Jayden was declared a dependent of the juvenile court after having been found to be suffering from multiple, non-accidentally inflicted injuries in different stages of healing and that father failed to reunify with him and was provided only monitored visitation upon termination of dependency jurisdiction. Counts b-1, f-1 and j-1 alleged that mother and father had caused the death of Mia's two-month-old sibling, Scarlett, by co-sleeping with Mia and Scarlett. Counts b-2 and b-3 alleged that mother and father were currently abusing marijuana and that mother had a history of substance abuse. The petition also provided notice that DCFS might seek an order bypassing reunification services.

The adjudication hearing ultimately transpired on November 16, 2017. Both mother and father attended the hearing. DCFS moved into evidence: (1) an Addendum Report dated December 30, 2016; (2) an Addendum Report dated December 30, 2016; (3) a Last Minute Information for the Court Report dated December 30, 2016; (4) a Last Minute Information for the Court Report dated January 30, 2017; (5) the Jurisdiction report dated February 24, 2017; (6) a Last Minute Information for the Court Report dated April 4, 2017; (7) a Supplemental Report dated June 21, 2017; (8) a Last Minute Information for the Court Report dated June 21, 2017; (9) medical records from

(f) applies if the child's parent or guardian caused the death of another child through abuse or neglect. Subdivision (j) applies if the child's sibling "has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions."

UCLA Medical Center; (10) medical records from Los Angeles County-USC Medical Center; (11) a Last Minute Information for the Court Report dated July 19, 2017; (12) minute orders from the juvenile court case No. CK01220; (13) a Last Minute Information for the Court Report dated September 25, 2017; (14) a July 14, 2014 article published in the Journal of the American Academy of Pediatrics; and (15) a Last Minute Information for the Court Report dated November 16, 2017. Father's counsel objected to the introduction of the minute orders from the prior case as well as the article published in the Journal of the American Academy of Pediatrics. The juvenile court overruled the objections. Father then moved into evidence his program progress reports.

The juvenile court next proceeded with closing arguments. Mother asked the court to dismiss counts b-1, b-2, f-1 and j-1 because the evidence established that Scarlett's cause of death was Sudden Infant Death Syndrome (SIDS) and there was no evidence that co-sleeping had contributed to her death. Further, there was no evidence that Mia was at a current risk of harm, there was no current drug use, and there was no nexus between mother's marijuana use and Scarlett's death, which distinguished from *In re Z.G.* (2016) 5 Cal.App.5th 705.⁸ Father joined

⁸ In *In re Z.G.*, the Fourth District held that the parents had caused the death of the children's sibling, such that the children were subject to dependency jurisdiction, where the mother had used drugs that left her in an altered state, father was aware of mother's drug use and lack of sleep, and the parents nevertheless placed a seven-month-old sibling in the same bed with the parents and their 22-month-old child, instead of putting him in a crib, and the sibling died from positional asphyxia. (See *In re Z.G.*, *supra*, 5 Cal.App.5th at p. 717.)

mother's arguments and asked the court to dismiss the petition in its entirety. Minor's counsel joined mother's arguments with respect to counts b-1, b-2, f-1, but argued that counts b-4 and j-1, which addressed father's prior conduct, should be sustained. County counsel argued that there was sufficient evidence to sustain the petition as pleaded, including evidence that bed-sharing increases the risk of SIDS and the parents were bed-sharing despite knowing its risks, that mother and father used marijuana two days before Scarlett's death, and that father had a history with DCFS.

The juvenile court found that the parents' neglect in the form of bed-sharing had caused Scarlett's death and sustained the b-1, f-1 and j-1 counts.⁹ However, the juvenile court found there was no nexus between Scarlett's death and the parents' marijuana use two days prior to her death and thus dismissed counts b-2 and b-3. The juvenile court also sustained counts a-1,

⁹ As sustained, counts b-1, f-1 and j-1 read: "On 12/12/16, the child Mia [J.]'s mother, Claudia [A.] and father, Dylan [J.], created a detrimental and an endangering situation for the child Mia in the now two-month deceased sibling, Scarlett [J.] . . . , in that the parents caused the children to be placed in an unsafe sleeping arrangement by sleeping in the bed with the parents resulting in the sibling being suffocated. On 12/12 /2016, the now deceased sibling was hospitalized and found brain[-]dead by hospital medical personnel. On 12/13/16, the sibling was pronounced dead. Such an unsafe sleeping arrangement established for the surviving child Mia's now deceased sibling by the parents endangers the now surviving child Mia's physical health and safety and places the surviving child at risk of serious physical harm, damage and danger.

b-4 and j-2.¹⁰ As to disposition, mother argued in favor of a home-of-parent order. Minor's counsel joined and argued that father should be provided services. County counsel argued that Mia should not be released to mother and that father should not

¹⁰ As sustained, counts a-1, b-4 and j-2 read: "On 08/11/2013, the child Mia [J.]'s then three[-]month[-]old paternal half sibling, Jayden [J.] . . . was medically examined and found to be suffering from a detrimental and endangering condition consisting of healing fractures to the anterolateral right second through eight ribs and a healing fracture to the anterior left seventh rib. The paternal half sibling sustained a healing right tibia fracture. The paternal half sibling sustained torus fractures of distal left radius and ulna diaphyses. The paternal half sibling sustained a right pleural effusion, left acromion abnormality and a subperiosteal hemorrhage. The paternal half sibling sustained ecchymosis to the right eyelid. The paternal half siblings injuries were in different stages of healing. The child's father, Dylan [J.]'s explanations of the manner in which the paternal half sibling sustained the injuries were inconsistent with the paternal half sibling's injuries. The paternal half sibling's injuries were consistent with non-accidental trauma. The paternal half sibling's injuries were of such a nature that would ordinarily not be sustained except as a result of deliberate unreasonable neglectful acts of the father who had care, custody and control of the half sibling. The paternal half sibling was a prior dependent of the [j]uvenile [c]ourt due to the paternal half sibling's injuries that the sibling sustained while in the care, custody and control of the father. The father did not reunify with the paternal half sibling Jayden [J.] [and] when the [j]uvenile [c]ourt terminated jurisdiction, the father was granted monitored visits. The father's conduct to the child's paternal half sibling and failure to comply with the [j]uvenile [c]ourt [o]rders endanger the child Mia's physical health and safety and place the child at risk of serious physical harm, damage and danger."

receive services. The juvenile court declared Mia a dependent. The juvenile court then ordered Mia removed from father's custody and placed her with mother in the home-of-parent. The juvenile court also ordered that DCFS provide family maintenance services. The juvenile court also ordered DCFS provide enhancement services to father. The juvenile court also set a six-month review hearing.

On appeal, mother contends that because there was no evidence co-sleeping caused, or even contributed to, Scarlett's death, the juvenile court's true finding as to the section 300, subdivision (f), allegation (count f-1) must be reversed, as must the related subdivision (b) and subdivision (j) allegations (count b-1 and count j-1).

DISCUSSION

I. Standard of Review

We review the juvenile court's jurisdictional findings and dispositional orders for substantial evidence. (*In re I.J.* (2013) 56 Cal.4th 766, 773.) Substantial evidence is "evidence that is reasonable, credible and of solid value." (*In re Yvonne W.* (2008) 165 Cal.App.4th 1394, 1401.) Under this standard of review, we examine the record to determine whether any substantial evidence, contradicted or uncontradicted, supports the juvenile court's findings and conclusions, viewing the record in the light most favorable to the court's determinations and drawing all reasonable inferences from the evidence to support the determinations. (*In re I.J.*, at p. 773.) We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the juvenile court. (*Ibid.*) Thus, the pertinent inquiry is whether substantial evidence supports the contested finding, not whether

a contrary finding might have been made. (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 228.)

II. Applicable Law

Section 300, subdivision (f), authorizes dependency jurisdiction over a minor if the court finds by a preponderance of the evidence that the parent caused the death of another child by abuse or neglect. A finding of current risk is not required. (*In re Ethan C.* (2012) 54 Cal.4th 610, 616, 618, 624.) As for the standard of negligence under section 300, subdivision (f), our Supreme Court has established that the statute “allows (but does not require) the juvenile court to adjudge a child a dependent if the court finds that the want of ordinary care by the child’s parent or guardian caused another child’s death.” (*Id.* at p. 618.) In other words, section 300, subdivision (f), allows, but does not require, the juvenile court to adjudge a child a dependent if the court finds that the child’s parent or guardian caused another child’s death through the want of ordinary care; criminal negligence is not required. (*Ibid.* [the father’s negligence in failing to secure 18-month-old child in child safety seat before driving her in vehicle in violation of statute was, at minimum, failure to exercise ordinary care].)

In addition to the usual standard of negligence in tort, “normal concepts of legal causation apply under section 300[, subdivision] (f).” (*In re Ethan C.*, *supra*, 54 Cal.4th at p. 618.) “One’s wrongful acts or omissions are a legal cause of injury if they were a substantial factor in bringing it about. [Citations.] If the actor’s wrongful conduct operated concurrently with other contemporaneous forces to produce the harm, it is a substantial factor, and thus a legal cause, if the injury, or its full extent, would not have occurred but for that conduct. Conversely, if the

injury would have occurred even if the actor had not acted wrongfully, his or her conduct generally cannot be deemed a substantial factor in the harm. [Citations.] This ‘but for’ limitation does not apply, however, if the actor’s wrongful conduct alone would have produced the harm, even without contribution by other forces. [Citations.]” (*Id.* at p. 640.)

III. Merits

On appeal, mother concedes that her conduct qualifies as neglectful under section 300, subdivision (f). Mother admits she had been advised that babies should sleep on their backs on a firm surface and knew that bed-sharing could have severe consequences, including death. Nevertheless, mother chose frequently to bed-share with Mia, then Mia and Scarlett, because she believed it was natural to do so. However, mother argues, neglectful conduct in and of itself does not support jurisdiction under section 300, subdivision (f). Instead, there must be proof that the parents’ neglectful conduct caused the child’s death.

However, mother’s framing of the issue on appeal is too restricted. We are not tasked with determining if the parents caused Scarlett’s death. Rather, we must determine whether there was substantial evidence that the parents’ concededly neglectful conduct was a substantial factor in causing Scarlett’s death. As long as the parents’ wrongful conduct operated concurrently with other contemporaneous forces to produce the child’s death, it is a substantial factor. (See *In re Ethan C.*, *supra*, 54 Cal.4th at pp. 618, 640.) Our survey of the small universe of co-sleeping dependency cases reveals that, although this is a close case, sufficient evidence supports the juvenile court’s jurisdictional finding pursuant to section 300, subdivision (f).

Our library of published cases consists of *In re Z.G.*, *supra*, 5 Cal.App.5th 705, *In re Ashley B.* (2011) 202 Cal.App.4th 968, and *In re A.M.* (2010) 187 Cal.App.4th 1380. We discuss each case in turn. In *In re Z.G.*, seven-month-old Junior died while sleeping in a bed with the mother and Z.G. The mother found Junior's body wedged between the bed, a pillow and a rolling portable desk. The coroner later determined Junior had died from positional asphyxia, and ruled that his death was an accident. (*In re Z.G.*, *supra*, 5 Cal.App.5th at p. 709.) The Fourth District concluded there was sufficient evidence to support the juvenile court's finding that the parents' neglect was a cause of Junior's death. (*Id.* at p. 717.) There had been numerous prior child abuse and neglect reports concerning the family, mostly pertaining to the mother's substance abuse. The mother had used both marijuana and methamphetamine while pregnant with both Z.G. and Junior. (*Id.* at p. 710-711.) After Junior's death, the mother tested positive for marijuana seven times and missed two drug tests. (*Id.* at p. 711.) Both parents later stopped drug testing altogether and neither enrolled in a drug treatment or 12-step program. (*Id.* at p. 712.) The mother also had a substantial mental health history, including bipolar, manic-depression, depression, and cutting issues. The mother admitted she had not taken her prescribed medications for over three years. (*Id.* at p. 711.) Although the juvenile court allowed for monitored visits three times a week, the parents canceled several scheduled visits and the mother appeared to be under the influence during this time. (*Id.* at p. 712.)

An investigation into the circumstances of Junior's death revealed that around 2:30 p.m. on Saturday, March 7, 2015, the mother smoked methamphetamine after she had returned home

from a court ordered parenting class. The mother did not sleep at all that night or the next day. Around 9:00 p.m. on Sunday, March 8, the parents put Z.G. and Junior in the mother's bed for the night. They had another bed and a crib for the children but often did not use them. Around 10:00 p.m., the mother smoked concentrated cannabis wax. Around 1:00 a.m. on Monday, March 9, the mother and the father went to sleep in the bed with Junior and Z.G. Around 6:00 a.m., the father put Junior back in the bed, on his side, between the mother and the wall. The father woke the mother, told her both children were in bed with her, and left for work. When the mother woke at about 8:30 a.m. she found Junior facedown at the end of the bed, purple and not breathing. (*In re Z.G.*, *supra*, 5 Cal.App.5th at pp. 710-711.)

The juvenile court found that the parents' "neglect and drug use were 'substantial or contributing . . . sufficient' causes of Junior's death." (*In re Z.G.*, *supra*, 5 Cal.App.5th at p. 714.) The Fourth District affirmed. "[T]he ordinary risks of cosleeping were magnified by the undisputed links in the chain of events leading to Junior's death. [The m]other had not slept for two days, after using methamphetamine. She had also used concentrated cannabis wax, a potent form of marijuana, the night before Junior died. It is reasonable to infer . . . these circumstances left [the m]other in an 'altered state.' [The f]ather, aware of these circumstances, still put Junior back in the bed with [the m]other and Z.G and left." (*Id.* at p. 717.) Thus, the Court of Appeal held, substantial evidence supported the finding that the parents' neglect was a substantial factor in causing the child's death. (*Ibid.*) Notably, the court said it would reach the same conclusion *whether or not* mother was under the influence of illegal drugs at the time of Junior's death. (*Ibid.*)

Unlike *In re Z.G.*, here the evidence did not demonstrate mother was in an altered state or that father, aware of such a circumstance, put Scarlett back in the bed with mother and Mia and left. (See *In re Z.G.*, *supra*, 5 Cal.App.5th at p. 717.) As *In re Z.G.* recognized, these factors are not dispositive. (*Ibid.*) Instead, courts must look at the entire chain of events leading to a child's death, not merely the final event directly causing the death. With respect to the causation evidence in *In re Z.G.*, the parents' "neglect was putting seven-month-old Junior in the same bed with [the p]arents and 22-month-old Z.G., instead of putting him in his crib in the first instance, thus exposing him to dangers of all kinds." (*Id.* at p. 717.) Although the ordinary risks of co-sleeping were magnified by the undisputed links in the chain of events leading to the child's death (see *ibid.*), the first link in that chain—placing the child in the parents' bed—remained a substantial factor in causing the death. "In short, Junior's death would not have occurred 'but for' [the p]arents' neglect." (*Ibid.*)

Here, mother's and father's neglect was putting two-month-old Scarlett in their bed, thus exposing her to the dangers associated with that practice. Although there is no evidence that the ordinary risks of co-sleeping were magnified by any drug or alcohol use by mother and father, their original neglect remains the first link in that causation chain. As in *In re Z.G.*, the parents' initial decision to co-sleep with their children was a substantial factor in causing the infant's death. Sufficient evidence thus supports the juvenile court's determination that the death would not have occurred but for that decision. Although the coroner said it was unknown whether bed-sharing had contributed to Scarlett's death, both the treating nurse and treating doctor concluded that Scarlett's injuries were indicative

of suffocation, resulting, or possibly resulting, from co-sleeping. When considered in conjunction with mother's admission that she had received, but ignored, the hospital's warnings regarding the dangers of co-sleeping, it is clear that substantial evidence supports the juvenile court's jurisdictional finding pursuant to section 300, subdivision (f).

In re Z.G. further determined that the two infant co-sleeping cases cited by the mother—*In re A.M.*, *supra*, 187 Cal.App.4th 1380 and *In re Ashley B.*, *supra*, 202 Cal.App.4th 968—did not compel a contrary conclusion. (*In re Z.G.*, *supra*, 5 Cal.App.5th at p. 717.) The same is true here. Although mother cites the two cases to argue that they establish the quantum of evidence required for a section 300, subdivision (f), finding, we are not persuaded.

In *In re A.M.*, six-day-old James died while sleeping in the same bed as his father, his mother, and his brother. (*In re A.M.*, *supra*, 187 Cal.App.4th at pp. 1382, 1384-1385.) The father challenged the sufficiency of the evidence supporting the juvenile court's jurisdictional findings under section 300, subdivision (f). The Court of Appeal rejected this challenge. "Here, there is sufficient evidence to support the [trial] court's findings. . . . [The father] stated that when he was in the family bed, he 'pushed' James as far as he could toward [the mother] in hopes that she would wake up and attend to James's crying. [The father] later admitted he heard James struggling to breathe and that James was not breathing normally. . . . As the trial court stated, [the father] recognized there was a risk to James and he had the ability to 'qualify, quantify and assess the risk, and, more importantly, [was] in a position and [had] the means to intervene.' [The father], however, did not intervene even though

he heard James struggling to breathe. The evidence is sufficient to support the juvenile court's finding that [the father] caused the death of James through neglect." (*In re A.M.*, *supra*, 187 Cal.App.4th at p. 1388.) However, nothing in *In re A.M.* suggests causation cannot be found in other facts, like the facts of this case. Rather, this case merely represents a straightforward application of the causation principles outlined in *In re Ethan C.*

In *In re Ashley B.*, one-month-old Jose died while sleeping in the same bed as his father, his mother, and his sister, Ashley. (*In re Ashley B.*, *supra*, 202 Cal.App.4th at pp. 970-971.) Ashley's mother argued the juvenile court erred when it sustained a jurisdiction finding under section 300, subdivision (j) (abuse or neglect of sibling), based on the circumstances leading to Jose's death. (*In re Ashley B.*, at p. 970.) Specifically, the mother argued substantial evidence did not support the juvenile court's implied determination she was abusive or neglectful in connection with Jose's death. (*Id.* at p. 982.) The Court of Appeal rejected these arguments. "The evidence before the juvenile court showed that [the] mother and [the] father ignored the discharging hospital's instructions that Jose, a premature infant who had suffered from sleep apnea while hospitalized, should be placed to sleep in his crib on his back. Both DCFS and the coroner noted that Jose's crib was broken This evidence was sufficient to support a conclusion that neither [the] mother nor [the] father was ensuring that Jose was put to bed safely." (*Ibid.*)

Here, mother's decision to ignore the hospital's warnings about co-sleeping, as well as the parents' decision not to use a crib, support the conclusion that the parents in the instant case, like the parents in *In re Ashley B.*, neglected to ensure that their

infant was “put to bed safely.” (*In re Ashley B.*, *supra*, 202 Cal.App.4th at p. 982.)

DISPOSITION

We affirm the juvenile court’s findings and orders.
NOT TO BE PUBLISHED

JOHNSON, Acting P. J.

We concur:

BENDIX, J.

CURREY, J.*

* Associate Justice of the Court of Appeal, Second Appellate District, Division Four, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.